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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,656	06/20/2001	Sharon Durst	1578	4479

7590

08/21/2003

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EXAMINER

RHEE, JANE J

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,656

Applicant(s)

DURST ET AL.

Examiner

Jane J Rhee

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/08/03 has been entered.

Claim Objections

2. Claim 7 is objected to because of the following informalities: Claim 7 is dependent on a canceled claim. Appropriate correction is required.
3. Claim 13 is objected to because of the following informalities: Claim 13 on page 4 lines 2-5 are two identical limitations, "said rows of sheets being fastened together solely by fasteners passing through all of the rows of the plurality of rows of ballistic fiberglass." Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter is referenced to the "drywall on at least one side of the ballistic zone of protection wall".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (figures 1 and 2) in view of Klein et al. (4241457).

The applicants' admitted prior of art discloses a ballistic resistant zone of protection wall comprising a plurality of rows of adjacent abutted sheets of UL listed ballistic fiberglass sheets having a UL listing of any UL Level 1, UL Level 2, or UL Level 3 (see figure 1). The applicants' admitted prior of art also discloses rows of sheets being fastened together by conventional fasteners through all the rows of ballistic fiberglass (see figure 1). The applicants' admitted prior state of art fails to disclose that

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the abutment of any two sheets of fiberglass is spaced from the abutment of any two sheets in any other row.

However, Klein teaches that the abutment of any two sheets of ballistic material is spaced from the abutment of any two sheets in any other row (col.3 line 46-49) for the purpose of achieving a higher level of ballistic protection.

It would have been obvious to one of ordinary skill of the art at the time applicant's invention was made to have provided that the abutment of any two sheets of fiberglass in the prior art laminate is spaced from the abutment of any two sheets in any other row in order to achieve higher level of ballistic protection (col.3 line 49-59) because a staggered layer has more ballistic protection due to its difficulty of a bullet penetrating through the seam which is a concurrence in an superimposed layer.

The applicants' admitted state of art fails to disclose UL Levels 4, 5, and 8 comprising a plurality of rows of adjacent abutted sheets of UL listed ballistic fiberglass. One of ordinary skill in the art would have recognized that abutting sequentially a plurality of sheets of a lower level protection ballistic fiberglass, in various combinations of Level 1, Level 2, and Level 3, and staggering the disposition of the plurality of horizontal sheets that the desired level 4, 5, 7, or 8 can be achieved.

6. Claims 9-10,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' admitted prior art in view of Klein as applied to claim 11 above, and further in view of Dickson et al (5,851,932).

Applicant's admitted prior art and Klein et al. disclose a ballistic resistant zone of protection wall as described above. Applicant's admitted prior art and Klein fails to teach that the higher level of protection Level 2 is disposed toward the interiorly of Level 1 in the zone of protection wall or that the UL listed sheets of Levels 1,2, and 3 are employed in the construction of the protection wall with Level 3 being innermost. Dickson teaches that using two different levels of ballistic protection provides an improved ballistic laminate at a lower cost (see col.1, line 15-38) for the purpose using two different levels of ballistic protection. Also, Dickson teaches that the higher level of protection is disposed toward the interior of the protection zone (col. 2 lines 61-65, col. 3 lines 26-30) for the purpose of having the first face portion of the panels absorb the energy of the projectiles in compression before the high tensile strength of the woven filaments take over and resist the penetration (col. 3 lines 30-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided applicant's admitted prior art and Klein two different levels of ballistic protection in order to provide improved ballistic laminate at a lower cost as taught by Dickson et al. (col. 1 lines 15-38).

Furthermore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided applicant's admitted prior art and Klein with the higher level of protection such as Level 2 is disposed interiorly of Level 1 in the zone protection wall or Level 3 disposed interiorly of Levels 1 or 2 of the protection zone in order to have the first face portion of the panels absorb the energy of

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the projectiles in compression before the high tensile strength of the woven filaments take over and resist the penetration (col. 3 lines 30-35).

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Klein et al. (4241457).

Applicant's admitted prior art and Klein et al. disclose a ballistic resistant zone of protection wall as described above. Applicant's admitted prior art and Klein et al. fail to disclose a dry wall on at least one side of the ballistic zone of protection. Applicant's prior art teaches that bullet resistant barriers are used in bank teller areas, court room areas including judge benches, money handling rooms such as at casinos, cashier areas such as self serve gas stations and convenience markets among many others for the purpose of establishing protection against powerful weapons (page 1 lines 27-31).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Applicant's admitted prior art and Klein et al. with a dry wall on at least one side of the ballistic zone of protection depending on the intended use of the ballistic resistant zone of protection wall such as money handling rooms like casinos in order to establish protection against powerful weapons as taught by Applicant's admitted prior art (page 1 lines 27-31).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read "Jane Rhee". The signature is written in a cursive, flowing style.

Jane Rhee
August 4, 2003